Washington Sentinel.

MESSAGE OF THE PRESIDENT OF THE UNITED STATES VETOING THE FRENCH SPOLIATION BILL.

To the House of Representatives:

I have received and carefully considered the bill entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the thirty-first of July, one thousand eight hundred and one," and, in the discharge of a duty imperatively enjoined on me by the Constitution, I return the same, with my objections, to the House of Representatives, in which it originated.

In the organization of the government of the United States, the legislative and executive functions were separated, and placed in distinct hands. Although the President is required, from time to time, to recommend to the consideration of Congress such measures as he shall judge necessary and expedient, his participation in the formal business of legislation is limited to the single duty, in a certain contingency, of demanding for a bill a particular form of vote, prescribed by the Constitution, before it can become a law. He is not invested with power to defeat legislation by an absolute veto, but only to restrain it, and is charged with the duty, in case he disapproves a measure, of invoking a second, and a more deliberate and solemn consideration of it on the part of Congress. It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment, or be faithless to the trust reposed in him. If he approve a bill he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, for such further action as the Constitution demands, which is its enactment, if at all, not by a bare numerical majority as in the first instance, but by a constitutional majority of two thirds of both houses.

While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation, for, while it requires him to sign if he approve, it, in my judgment, imposes upon him the duty of withholding his signature if he do not approve. In the execution of his official duty in this respect, he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or the wrongfulness of the proposed law. In a matter as to which he is doubtful in his own mind, he may well defer to the majority of the two Houses. Individual members of the respective Houses, owing to the nature, variety, and amount of business pending, must necessarily rely, for their guidance in many, perhaps most cases, when the matters involved are not of popular interest, upon the investigation of appropriate committees, or, it may be, that of a single member, whose attention has been particularly directed to the subject. For similar reasons, but even to a greater extent, from the number and variety of subjects daily urged upon his attention, the President naturally relies much upon the investigation had, and the results arrived at, by the two Houses, and hence those results, in large classes of cases, constitute the basis upon which his approval rests. The President's responsibility is to the whole people of the United States; as that of a senator is to the people of a particular State, that of a representative to the people of a State or district; and it may be safely assumed that he will not resort to the clearly-defined and limited power of arresting legislation, and calling for reconsideration of any measure, except in obedience to requirements of duty. When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality, but of the impropriety, or injustice in other respects, of any measure, if he declare that he approves it, he is false to his oath, and he deliberately disregards his constitutional obligations.

I cheerfully recognize the weight of authority which attaches to the action of a majority of the two houses. But in this case, as in some others, the framers of our Constitution, for wise considerations of public good, provided that nothing less than a two-thirds vote of one or both of the houses of Congress shall become effective to bind the coordinate departments of the government, the people, and the several States. If there be anything of seeming individiousness in the official right thus conferred on the President, it is in appearance only, for the same right of approving or disapproving a bill, according to each one's own judgment, is conferred on every member of the Senate and of the House of Representatives.

It is apparent, therefore, that the circumstances must be extraordinary which would induce the President to withhold approval from a bill involving no violation of the Constitution. The amount of the claims proposed to be discharged by the bill before me, the nature of the transactions in which those claims are alleged to have originated, the length of time during which they have occupied the attention of Congress and the country, present such an exigency. Their history renders it impossible that a President who has participated to any considerable degree in public affairs could have failed to form, respecting them, a decided opinion, upon what he would deem satisfactory grounds. Nevertheless, instead of resting on former opinions, it has seemed to me proper to review and more carefully examine the whole subject, so as satisfactorily to determine the nature and extent of my obligations in the premises.

I feel called upon, at the threshold, to notice an assertion, often repeated, that the refusal of the United States to satisfy these claims, in the manner provided by the present bill, rests as a stain on the justice of our country. If it be so, the imputation on the public honor is aggravated by the consideration that the claims are coeval with the present century, and it has been a persistent wrong during that whole period of time. The allegation is, that private property has been taken for public use without just compensation, in violation of express provision of the Constitution; and that reparation has been withheld, and justice denied, until the injured parties have for the most part descended to the grave. But it is not to be forgotten or overlooked, that those who represented the people, in different capacities, at the time when the alleged obligations were incurred, and to whom the charge of injustice attaches, in the first instance, have also passed away, and borne with them the special information which controlled their decision, and, it may be well presumed, constituted the justification of their acts.

If, however, the charge in question be well founded, although its admission would inscribe on our history a page which we might desire most of all to obliterate, and although, if true, it must painfully disturb our confidence in the justice and the high sense of moral and political responsibility of those whose memories we have been taught to cherish with so much reverence and respect, still, we have only one course of action left to us, and that is, to make the most prompt and ample reparation in our power, and consign the wrong, as far as may be, to forgetfulness.

But no such heavy sentence of condemnation should be lightly passed upon the sagacious and patriotic men who participated in the transactions out of which these claims are supposed to have arisen, and who, from their ample means of knowledge of the general subject in its minute details, and from their official position, are peculiarly responsible for whatever there is of wrong or injustice in the decisions of the government.

Their justification consists in that which constitutes the objection to the present bill—namely, the absence of any indebtedness on the part of the United States. The charge of a denial of justice in this case, and a consequent stain upon our national character, has not yet been endorsed by the American people. But, if it were otherwise, this bill, so far from relieving the past, would only stamp on the present a more deep and indelible stigma. It admits the justice of the claims, concedes that payment has been wrongfully withheld for fifty years, and then proposes, not to pay them, but to compound with the public creditors by providing, that whether the claims shall be presented or not, whether the sum appropriated shall pay much or little of what shall be found due, the law itself shall constitute a perpetual bar to all future demands. This is not, in my judgment, the way to atone for wrongs, if they exist, nor to meet subsisting obligations.

If new facts, not known or not accessible during the administration of Mr. Jefferson, Mr. Madison, or Mr. Monroe, had since been brought to light, or new sources of information discovered, this would greatly relieve the subject of embarrassment. But nothing of this nature has occurred.

That those eminent statesmen had the best means of arriving at a correct conclusion, no one will deny. That they never recognized the alleged obligation on the part of the government is shown by the history of their respective administrations. Indeed, it stands, not as a matter of controlling authority, but as a fact of history, that these claims have never since our existence as a nation been deemed by any President worthy of recommendation to Congress.

Claims to payment can rest only on the plea of indebtedness on the part of the government. This requires that it should be shown that the United States have incurred liability to the claimants either by such acts as deprived them of their property, or by having actually taken it for public use without making just compensation for it.

The first branch of the proposition—that on which an equitable claim to be indemnified by the United States for losses sustained might rest—requires at least a cursory examination of the history of the transactions on which the claims depend. The first link, which in the chain of events arrests attention, is the treaties of alliance and of amity and commerce between the United States and France, negotiated in 1778. By those treaties, peculiar privileges were secured to the armed vessels of each of the contracting parties in the ports of the other; the freedom of trade was greatly enlarged; and mutual obligations were incurred by each to guarantee to the other their territorial possessions in America.

In 1792–'3, when war broke out between France and Great Britain, the former claimed privileges in American ports which our government did not admit as deducible from the treaties of 1778, and which it was held were in conflict with obligations to the other belligerent powers. The liberal principle of one of the treaties referred to—that free ships make free goods, and that subsistence and supplies were not contraband of war, unless destined to a blockaded port—was found, in a commercial view, to operate disadvantageously to France, as compared with her enemy, Great Britain, the latter asserting, under the law of nations, the right to capture, as contraband, supplies when bound for an enemy's port.

Induced mainly, it is believed, by these considerations, the government of France decreed, on the 9th of May, 1793, the first year of the war, that "the French people are no longer permitted to fulfil towards the neutral powers in general the vows they have so often manifested, and which they constantly make for the full and entire liberty of commerce and navigation;" and, as a counter measure to the course of Great Britain, authorized the seizure of neutral vessels bound to an enemy's port, in like manner as that was done by her great maratime rival. This decree was made to act retrospectively, and to continue until the enemies of France should desist from depredations on the neutral vessels bound to the ports of France. Then followed the embargo, by which our vessels were detained in Bordeaux; the seizure of British goods on board of our ships and of the property of American citizens, under the pretence that it belonged to English subjects, and the imprisonment of American citizens captured on the high seas.

Against these infractions of existing treaties and violations of our rights as a neutral power, we complained and remonstrated. For the property of our injured citizens we demanded that due compensation should be made, and from 1793 to 1797 used every means, ordinary and extraordinary, to obtain redress by negotiation. In the last-mentioned year these efforts were met by a refusal to receive a minister sent by our government with special instructions to represent the amicable disposition of the government and people of the United States, and their desire to remove jealousies and to restore confidence by showing that the complaints against them were groundless. Failing in this, another attempt to adjust all differences between the two republics were made in the form of an extraordinary mission, composed of three distinguished citizens, but the refusal to receive was offensively repeated; and thus terminated this last effort to preserve peace and restore kind relations with our early friend and ally, to whom a debt of gratitude was due which the American people have never been willing to depreciate or to forget. Years of negotiation had not only failed to secure indemnity for our citizens and exemption from further depredation, but these long-continued efforts had brought upon the government the suspension of diplomatic intercourse with France, and such indignities as to induce President Adams, in his message of May 16, 1797, to Congress, convened in special session, to present it as the particular matter for their consideration, and to speak of it in terms of the highest indignation. Thenceforward the action of our government assumed a character which clearly indicates that hope was no longer entertained from the amicable feeling or justice of the government of France; and hence the subsequent measures were those of force.

On the 28th of May, 1798, an act was passed for the employment of the navy of the United States against "armed vessels of the republic of France," and authorized their capture, if "found hovering on the coast of the United States for the purpose of committing depredations on the vessels belonging to the citizens thereof." On the 18th of June, 1798, an act was passed prohibiting commercial intercourse with France, under the penalty of the forfeiture of the vessels so employed. On the 25th of June, the same year, an act to arm the merchant marine to oppose searches, capture aggressors, and recapture American vessels taken by the French. On the 28th of June, same year, an act for the condemnation and sale of French vessels captured by authority of the act of 28th of May preceeding. On the 27th of July, same year, an act abrogating the treaties and the convention which had been concluded between the United States and France, and declared "that the same shall not henceforth be regarded as legally obligatory on the goveanment or citizens of the United States." On the 9th of the same month an act was passed which enlarged the limits of the hostilities then existing by authorizing our public vessels to capture armed vessels of France wherever found upon the high seas, and conferred power on the President to issue commissions to private armed vessels to engage in like service.

These acts, though short of a declaration of war, which would put all the citizens of each country in hostility with those of the other, were nevertheless actual war, partial in its application, maritime in its character, but which required the expenditure of much of our public treasure, and much of the blood of our patriotic citizens who, in vessels but little suited to the purposes of war, went forth to battle on the high seas for the rights and security of their fellow-citizens, and to repel indignities offered to the national honor.

It is not then, because of any failure to use all available means, diplomatic and military, to obtain reparation that liability for private claims can have been incurred by the United States; and if there is any pretence for such liability, it must flow from the action, not from the neglect, of the United States. The first complaint on the part of France was against the proclamation of President Washington, of April 22, 1793. At that early period in the war which involved Austria, Prussia, Sardinia, the United Netherlands, and Great Britain on the one part, and France on the other, the great and wise man who was the Chief Executive, as he was and had been the guardian of our then infant republic, proclaimed that "the duty and interest of the United States require that they should, with sincerity and good faith, adopt and pursue a conduct friendly and impartial towards the belligerent powers." This attitude of neutrality, it was pretended, was in disregard of the obligations of alliance between the United States and France. And this, together with the often-renewed complaint that the stipulations of the treaties of 1778 had not been observed and executed by the United States, formed the pretext for the series of outrages upon our government and its citizens, which finally drove us to seek redress and safety by an appeal to force. The treaties of 1778, so long the subject of French complaints, are now understood to be the foundation upon which are laid these claims of indemnity *from* the United States for spoliations committed by the French prior to 1800. The act of our government which abrogated not only the treaties of 1778, but also the subsequent consular convention of 1788, has already been referred to, and it may be well here to inquire what the course of France was in relation thereto. By the decrees of 9th of May, 1793, 7th of July, 1796, and 2d of March, 1797, the stipulations which were then and subsequently most important to the United States were rendered wholly inoperative. The highly injurious effects which these decrees are known to have produced, show how vital were the provisions of treaty which they violated, and make manifest the incontrovertible right of the United States to declare, as the consequence of these acts of the other contracting party, the treaties at an end.

The next step in this inquiry is, whether the act declaring the treaties null and void was ever repealed, or whether by any other means the treaties were ever revived so as to be either the subject or the source of national obligation. The war which has been described was terminated by the treaty of Paris of 1800, and to that instrument it is necessary to turn to find how much of pre-existing obligations between the two governments outlived the hostilities in which they had been engaged. By the second article of the treaty of 1800, it was declared that the ministers plenipotentiary of the two parties not being able to agree respecting the treaties of alliance, amity, and commerce of 1778, and the convention of 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they shall have agreed upon these points, the said treaties and convention shall have no operation.

When the treaty was submitted to the Senate of the United States the second article was disagreed to, and the treaty amended by striking it out, and inserting a provision that the convention then made should continue in *force eight years* from the date of ratification, which convention, thus amended, was accepted by the First Consul of France, with the addition of a note explanatory of his construction of the convention, to the effect that by the retrenchment of the second article the two States renounce the respective pretensions which were the object of the said article.

It will be perceived by the language of the second article, as originally framed by the negotiators, that they had found themselves unable to adjust the controversies on which years of diplomacy and of hostilities had been expended; and that they were at last compelled to postpone the discussion of those questions to that most indefinite period, a "convenient time." All, then, of these subjects which was revived by the convention was the right to renew, when it should be convenient to the parties, a discussion which had already exhausted negotiation, involved the two countries in a maritime war, and on which the parties had approached no nearer to concurrence than they were when the controversy began.

The obligations of the treaties of 1778, and the convention of 1788, were mutual, and estimated to be equal. But, however onerous they may have been to the United States, they had been abrogated, and were not revived by the convention of 1800, but expressly spoken of as suspended until an event which could only occur by the pleasure of the United States. It seems clear, then, that the United States were relieved of no obligation to France by the retrenchment of the second article of the convention; and if it thereby France was relieved of any valid claims against her, the United States received no consideration in return, and that if private property was taken by the United States from their own citizens, it was not for public use. But it is here proper to inquire whether the United States did relieve France from valid claims against her on the part of citizens of the United States, and did thus deprive them of their property.

The complaints and counter-complaints of the two governments had been, that treaties were violated, and that both public and individual rights and interest had been sacrified. The correspondence of our ministers engaged in negotiations, both before and after the convention of 1800, sufficiently proves how hopeless was the effort to obtain full indemnity from France for injuries inflicted on our commerce from 1793 to 1800 unless it should be by an account in which the rival pretensions of the two governments should each be acknowledged, and the balance struck between them.

It is supposable, and may be inferred from the contemporaneous history as probable, that had the United States agreed in 1800 to revive the treaties of 1778 and 1788 with the construction which France had placed upon them, that the latter government would, on the other hand, have agreed to make indemnity for those spoliations which were committed under the pretext that the United States were faithless to the obligations of the alliance between the two countries.

Hence the conclusion that the United States did not sacrifice private rights or property to get rid of public obligations, but only refused to reassume public obligations for the purpose of obtaining the recognition of the claims of American citizens on the part of France.

All those claims which the French government was willing to admit were carefully provided for elsewhere in the convention, and the declaration ditional note, had no other application than to the of the First Consul, which was appended in his adclaims which had been mutually made by the governments, but on which they had never approximated to an adjustment. In confirmation of the fact that our government did not intend to cease from the prosecution of the just claims of our citizens against France, reference is here made to the annual message of President Jefferson of December 8, 1801, which opens with expressions of his gratification at the restoration of peace among sister nations, and after speaking of the assurances received from all nations with whom we had principal relations, and of the confidence thus inspired that our peace with them would not have been disturbed if they had continued at war with each other, he proceeds to say:

"But a cessation of irregularities which had afflicted the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence, and strengthen at the same time the hope that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past and new assurances for the future."

The zeal and diligence with which the claims of our citizens against France were prosecuted appear in the diplomatic correspondence of the three years next succeeding the convention of 1800, and the effect of these efforts is made manifest in the convention of 1803, in which provision is made for payment of a class of cases, the consideration of which France had at all previous periods refused to entertain, and which are of that very class which it has been often assumed were released by striking out the second article of the convention of 1800. This is shown by reference to the preamble, and to the fourth and fifth articles of the convention of 1803, by which were admitted among the debts due by France to citizens of the United States the amounts chargeable for "prizes made at sea in which the appeal has been properly lodged within the time mentioned in the said convention of the 30th of September, 1800," and this class was further defined to be only "captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the French republic, and only in case of the insufficiency of the captors."

If, as was affirmed on all hands, the convention of 1803 was intended to close all questions between the government of France and the United States, and twenty millions of francs were set apart as a sum which might exceed, but could not fall short, of the debts due by France to the citizens of the United States, how are we to reconcile the claim now presented with the estimates made by those who were of the time and immediately connected with the events, and whose intelligence and integrity have in no small degree contributed to the character and prosperity of the country in which we live? Is it rational to assume that the claimants, who now present themselves for indemnity by the United States, represent debts which would have been admitted and paid by France but for the intervention of the United States? And is it possible to escape from the effect of the voluminous evidence tending to establish the fact that France resisted all these claims—that it was only after long and skilful negotiation that the agents of the United States obtained the recognition of such of the claims as were provided for in the conventions of 1800 and 1803? And is not this conclusive against any pretensions of possible success on the part of the claimants if left unaided to make their applications to France; that the only debts due to American citizens which have been paid by France are those which were assumed by the United States as part of the consideration in the purchase of Louisiana?

There is little which is creditable either to the judgment or patriotism of those of our fellow-citizens who at this day arraign the justice, the fidelity, or love of country of the men who founded the republic, in representing them as having bartered away the property of individuals to escape from public obligations, and then to have withheld from them just compensation. It has been gratifying to me, in tracing the history of these claims, to find that ample evidence exists to refute an accusation which would impeach the purity, the justice, and the magnanimity of the illustrious men who guided and controlled the early destinies of the republic.

I pass from this review of the history of the subject, and, omitting many substantial objections to these claims, proceed to examine somewhat more closely the only grounds upon which they can by possibility be maintained.

Before entering on this, it may be proper to state distinctly certain propositions which, it is admitted on all hands, are essential to prove the obligations of the government.

First. That at the date of the treaty of September 30, 1800, these claims were valid and subsisting as against France.

Second. That they were released or extinguished by the United States in that treaty, and by the manner of its ratification.

Third. That they were so released or extinguished for a consideration valuable to the government, but in which the claimants had no more interest than any other citizens.

The convention between the French republic and the United States of America, signed at Paris on the 30th day of September, 1800, purports in the preamble to be founded on the equal desire of the First Consul (Napoleon Bonaparte) and the President of the United States to terminate the differences which have arisen between the two States. It declares, in the first place, that there shall be firm, inviolable, and universal peace, and a true and sincere friendship, between the French republic and the United States. Next it proceeds, in the second, third, fourth, and fifth articles, to make provision in sundry respects, having reference to past differences and the transition from the state of war between the two countries to that of general and permanent peace. Finally, in the residue of the twenty-seventh article, it stipulates anew the conditions of amity and intercourse, commercial and political, thereafter to exist, and, of course, to be substituted in place of the previous conditions of the treaties of alliance and of commerce, and the consular convention, which are thus tacitly, but unequivocally, recognized as no longer in force, but in effect abrogated, either by the state of war, or by the political action of the two republics.

Except in so far as the whole convention goes to establish the fact that the previous treaties were admitted on both sides to be at an end, none of the articles are directly material to the present question, save the following:

Art. II. "The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:

Art. V. "The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

On this convention being submitted to the Senate of the United States, they consented and advised to its ratification with the following proviso:

"Provided that the second article be expunged, and that the following article be added or inserted: It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of ratifications."

The spirit and purpose of this change are apparent and unmistakable. The convention, as signed by the respective plenipotentiaries, did not adjust all the points of controversy. Both nations, however, desired the restoration of peace. Accordingly, as to those matters, in the relations of the two countries concerning which they could agree, they did agree for the time being; and as to the rest, concerning which they could not agree, they suspended and postponed further negotiation.

They abandoned no pretensions, they relinquished no right on either side, but simply adjourned the question until "a convenient time." Meanwhile, and until the arrival of such convenient time, the relations of the two countries were to be regulated by the stipulations of the convention.

Of course, the convention was on its face a temporary and provisional one, but in the worst possible form of prospective termination. It was to cease at a convenient time. But how should that convenient time be ascertained? It is plain that such a stipulation, while professedly not disposing of the present controversy, had within itself the germ of a fresh one; for the two governments might at any moment fall into dispute on the question whether that convenient time had or had not arrived. The Senate of the United States anticipated and prevented this question by the only possible expedient—that is, the designation of a precise date. This being done, the remaining parts of the second article became superfluous and useless; for, as all the provisions of the convention would expire in eight years, it would necessarily follow that negotiations must be renewed within that period; more especially as the operation of the amendment which covered the whole convention was that even the stipulation of peace in the first article became temporary and expired in eight years, whereas that article, and that article alone, was permanent according to the original tenor of the convention.

The convention thus amended being submitted to the First Consul, was ratified by him, accompanying his act of acceptance by the following declaratory note:

"The government of the United States having added in its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French republic consents to accept, ratify and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: Provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article."

The convention, as thus ratified by the First Consul, having been again submitted to the Senate of the United States, that body resolved that "they considered the convention as fully ratified," and returned the same to the President for promulgation, and it was accordingly promulgated in the usual form by President Jefferson.

Now, it is clear, that in simply resolving that "they considered the convention as fully ratified," the Senate did in fact abstain from any express declaration of dissent or assent to the construction put by the First Consul on the retrenchment of the second article. If any inference, beyond this, can be drawn from their resolution, it is, that they regarded the proviso annexed by the First Consul to his declaration of acceptance as foreign to the subject, as nugatory, or as without consequence or effect. Notwithstanding this proviso, they considered the ratification as full. If the new proviso made any change in the previous import of the convention, then it was not full. And in considering it a full ratification, they in substance deny that the proviso did in any respect change the tenor of the convention.

By the second article, as it originally stood, neither republic had relinquished its existing rights or pretensions either as to other previous treaties, or the indemnities mutually due or claimed, but only deferred the consideration of them to a convenient time. By the amendment of the Senate of the United States, that convenient time, instead of being left indefinite, was fixed at eight years; but no right or pretension of either party was surrendered or abandoned.

If the Senate erred in assuming that the proviso added by the First Consul did not affect the question, then the transaction would amount to nothing more than to have raised a new question to be disposed of on resuming the negotiations—namely, the question whether the proviso of the First Consul did or did not modify or impair the effect of the convention as it had been ratified by the Senate.

That such, and such only, was the true meaning and effect of the transaction, that it was not, and was not intended to be, a relinquishment by the United States of any existing claim on France, and especially that it was not an abandonment of any claims of individual citizens, nor the set off of these against any conceded national obligations to France, is shown by the fact that President Jefferson did at once resume and prosecute to successful conclusion negotiations to obtain from France indemnification for the claims of citizens of the United States existing at the date of that convention; for on the 30th of April, 1803, three treaties were concluded at Paris between the United States of America and the French republic, one of which embraced the cession of Louisiana; another stipulated for the payment of sixty millions of francs by the United States to France; and a third provided, that for the satisfaction of sums due by France to citizens of the United States at the conclusion of the convention of September 30, 1800, and in express compliance with the second and fifth articles thereof, a further sum of twenty millions of francs should be appropriated and paid by the United States. In the preamble to the first of these treaties, which ceded Louisiana, it is set forth that—

"The President of the United States of America and the First Consul of the French republic, in the name of the French people, desiring to remove all source of misunderstanding relative to objects of discussion mentioned in the second and fifth articles of the convention of the eight Vendemaire, an. 9, (30th September, 1800,) relative to the rights claimed by the United States in virtue of the treaty concluded at Madrid, the 27th of October, 1795, between his Catholic Majesty and the said United States, and willing to strenghthen the union and friendship which at the time of the said convention was happily re-established between the two nations, have respectively named their plenipotentiaries," who "have agreed to the following articles."

Here is the most distinct and categorial declaration of the two governments, that the matters of claim in the second article of the convention of 1800 had not been ceded away, relinquished, or set off, but they were still subsisting subjects of demand against France. The same declaration appears in equally emphatic language in the third of these treaties, bearing the same date—the preamble of which recites that—

"The President of the United States of America and the First Consul of the French republic, in the name of the French people, having by a treaty of this date terminated all difficulties relative to Louisiana, and established on a solid foundation the friendship which unites the two nations, and being desirous, in compliance with the second and fifth articles of the convention of the eighth Vendemaire, ninth year of the French republic (30 September, 1800,) to secure the payment of the sums due by France to the citizens of the United States," and "have appointed plenipotentiaries," who agreed to the following among other articles:

"Art. 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemaire, ninth year of the French republic (30 September, 1800,) shall be paid according to the following regulations, with interest at six per cent., to commence from the periods when the accounts and vouchers were presented to the French government.

Art. II. "The debts provided for by the preceding article are those whose result is comprised in the conjectural note (a) annexed to the present convention, and which with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note which fall within the exceptions of the following articles shall not be admitted to the benefit of this provision.

Art. IV. "It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention, 8th Vendemaire, ninth year, (30 September, 1800.)

Art. V. "The preceding articles shall apply only—1st, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the government of the French republic, and only in case of insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention contracted before the 8th Vendemaire, an. 9, (30 September, 1800,) the payment of which has been heretofore claimed of the actual government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed. It is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason, on the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made.

Art. XII. "In case of claims for debts contracted by the government of France with citizens of the United States since the 8th Vendemaire, ninth year, (30 September, 1800.) not being comprised in this convention, may be pursued, and the payment demanded in the same manner as if it had not been made."

Other articles of the treaty provide for the appointment of agents to liquidate the claims intended to be secured, and for the payment of them, as allowed, at the treasury of the United States. The following is the concluding clause of the tenth article:

"The rejection of any claim shall have no other effect than to exempt the United States from the payment of it, the French government reserving to itself the right to decide definitely on such claim so far as it concerns itself."

Now, from the provisions of the treaties thus collated, the following deductions undeniably follow, namely:

First. Neither the second article of the convention of 1800, as it originally stood, nor the retrenchment of that article, nor the proviso in the ratification by the First Consul, nor the action of the Senate of the United States thereon, was regarded by either France or the United States as the renouncement of any claims of American citizens against France.

Second. On the contrary, in the treaties of 1803 the two governments took up the question precisely where it was left on the day of the signature of that of 1800, without suggestion on the part of France, that the claims of our citizens were excluded by the retrenchment of the second article, or the note of the First Consul, and proceeded to make ample provision for such as France could be induced to admit were justly due, and they were accordingly discharged in full, with interest, by the United States in the stead and behalf of France.

Third. The United States, not having admitted in the convention of 1800 that they were under any obligations to France by reason of the abrogation of the treaties of 1778 and 1788, persevered in this view of the question by the tenor of the treaties of 1803, and therefore had no such national obligation to discharge, and did not, either in purpose or in fact, at any time undertake to discharge themselves from any such obligation at the expense and with the property of individual citizens of the United States.

Fourth. By the treaties of 1803, the United States obtained from France the acknowledgement and payment, as part of the indemnity for the cession of Louisiana, of claims of citizens of the United States for spoliation so far as France would admit her liability in the premises; but, even then the United States did not relinquish any claim of American citizens not provided for by those treaties; so far from it, to the honor of France be it remembered, she expressly reserved to herself the right to reconsider any rejected claims of citizens of the United States.

Fifth. As to claims of citizens of the United States against France, which had been the subject of controversy between the two countries prior to the signature of the convention of 1800, and the further consideration of which was reserved for a more convenient time by the second article of that convention; for these claims, and these only, provision was made in the treaties of 1803—all other claims being expressly excluded by them from their scope and purview.

It is not to be overlooked, though not necessary to the conclusion, that by the convention between France and the United States of the 4th of July, 1831, complete provision was made for the liquidation, discharge, and payment, on both sides, of all claims of citizens of either against the other for unlawful seizures, captures, sequestrations, or destructions of the vessels, cargoes, or other property, without any limitation of time, so as in terms to run back to the date of the last preceding settlement, at least to that of 1803, if not to the commencement of our national relations with France.

The review of the successive treaties between France and the United States has brought my mind to the undoubting conviction that while the United States have in the most ample and the completest manner discharged their duty towards such of their citizens as may have been at any time aggrieved by acts of the French government, so, also, France has honorably discharged herself of all obligations in the premises towards the United States. To concede what this bill assumes, would be to impute undeserved reproach both to France and to the United States.

I am of course aware that the bill proposes only to provide indemnification for such valid claims of citizens of the United States against France as shall not have been stipulated for and embraced in any of the treaties enumerated, But in excluding all such claims, it excludes all in fact for which during the negotiations France could be persuaded to agree that she was in any wise liable to the United States or our citizens. What remains? And for what is five millions appropriated? In view of what has been said, there would seem to be no ground on which to raise a liability of the United States, unless it be the assumption that the United States are to be considered the insurers and the guarantor of all claims, of whatever nature, which any individual citizen may have against a foreign nation.

FRANKLIN PIERCE.

Washington, February 17, 1855.

Supreme Court of the United States,

Monday, February 19, 1855.

John E. Ward, esq., of Georgia, and Thornton K. Lothrop, esq., of Massachusetts, were admitted attorneys and counsellors of this court.

No. 52. James Stevens *vs.* Royal Gladding, et al. Appeal from the circuit court of the United States for Rhode Island.

Mr. Justice Curtis delivered the opinion of the court, reversing the decree of the circuit court with costs, and remanding the cause with directions to award a perpetual injunction as prayed for in the bill, and for further proceedings in conformity to the opinion of this court.

No. 73. Stephen J. Lewis's administratrix, appellant, *vs.* Edward R. Bell, assignee of J. Bell, jr.

The argument of this cause was concluded by Mr. Lawrence for the appellant.

No. 26. Henry R. W. Hill et al., appellants, *vs.* Jos. Meek's administrators et al.

This cause was submitted to the consideration of the court on a printed argument by Mr. Benjamin, for the appellants, and by Mr. Harris, for the appellees.

No. 41. Jesse B. Thomas's administrators, appellant, *vs.* Missouri Iron Company et al.

This cause was submitted to the consideration of the court on the record and printed argument by Mr. Hill, for the appellees.

No. 72. John Charles Fremont appellant, *vs.* The United States.

The argument of this cause was commenced by W. Carey Jones, esq., for the appellant.

Adjourned till to-morrow at 11 o'clock.

Dr. Pusey.—The English papers state that at the late election at Oxford University, the Rev. Dr. Pusey, the leader of the Romanizing party, was elected on the government board by a very large vote.

Washington Sentinel.

EDITED BY

WM. M. OVERTON, CH. MAURICE SMITH, AND BEVERLEY TUCKER.

FEBRUARY 20, 1855.

THE VETO MESSAGE.

The French Spoliation bill, on which depended the hopes and the interests of so many of our people, is defeated. In justice to the President, we lay before our readers the reasons expressed in his elaborate message for thus neutralizing the action and defeating the wishes of a majority of both Houses of Congress. As we have heretofore had occasion to remark, the exercise of the veto power is unrestricted, and by the direct terms of the Constitution is as absolutely enjoined upon the President in the event of his disapprobation of a bill, as his sanction is required in the event of his approval. The view taken by the President in his message in relation to this power is sound, and the reasons which he adduces in its support are able and conclusive.

But we regret that in the exercise of this power, he has thus defeated a measure, which as is well known to our readers, we have defended and approved. The narrative contained in the message, of our relations with France subsequent to the treaty of 1778, and prior to the treaty of 1800, does not strike us as affecting at all the responsibility of the government for the spoliations committed by the French upon our citizens. It is not our purpose, however, to enter into an argument upon the subject. The measure for the present is dead. The vote by which the bill was rejected in the House on yesterday is decisive of its fate. An attempt was made, as will be seen by reference to our congressional report to incorporate the measure upon the civil and diplomatic bill. Although in favor of its passage originally, we are gratified to learn that the proposition failed by a decided vote. Such a scheme, if carried out, would be a dangerous innovation, and in contravention of the spirit of the Constitution. Nothing would be easier than by such a course to defeat practically the whole power of executive interference. There are certain bills which are essential to the very existence of the government. The civil and diplomatic bill is such an one. If, therefore, Congress should incorporate with such a bill measures of the most objectionable character to the President, that officer would be subjected to the serious responsibility of giving his sanction to principles to which he was opposed, or by the exercise of his veto to stop the wheels of Government.

We will return to this subject in our next issue.

NORTHERN AND SOUTHERN KNOW-NOTHINGS—DO THEY AGREE.

But a few short months have elapsed since Whigs and Whig papers, in every part of the South, denounced in bitter and indignant terms the abolition sympathies and proclivities of their brethren of the Northern States. The anti-Nebraska fever raged with terrific violence in the non-slave holding States, and unprincipled fusion was the order of the day. Northern Whigs of every hue and stripe fraternally fused into an affectionate union with the Abolitionists, Freesoilers and incendiaries. A loud voice for repeal came up from the throats of the Northern Whigs. Congress was flooded with abolition petitions. The Senate and the House were denounced with unmeasured acrimony for passing the Nebraska bill. It was proclaimed that all the elements and atoms of abolitionism had united in a great crusade—that Whigs and Abolitionists, saints and sinners, Freesoilers and Temperance men, Jews, and Gentiles, Turks, and Christians had all fused into a formidable alliance to assail and batter down the Sebastopol of slavery. There was a mighty stir and a profound agitation.

The Whigs of the South became alarmed They saw that they could not co-operate longer with Northern Whigs, who gave such frightful signs of unsoundness. In public and in private the Southern Whigs lifted up their voices in loud condemnation of their leprous brethren of the North. They declared that they would no longer affiliate with them. Among the Presses that were the most prompt and violent in their denunciations of the Northern Whigs, were the Richmond *Whig* and the Petersburg *Intelligencer*. We admired their candor and commended their loyalty. We so expressed ourselves. But what drew from us sincere expressions of admiration, excited at the North an ill-disguised alarm. Scarce was the feeling of the Southern Whigs made known at the North before *open* anti-slavery agitation ceased. It ceased suddenly, and all men wondered at the ominous silence. What was a roaring lion became all at once a gentle lamb.

The secret of this sudden change from wrath to meekness is easily explained.

There was an organization that allowed all men whatever might be their opinions on slavery to meet in harmony and mingle in love. It was the Know-nothing organization, whose boast it is that it "sinks the question of slavery." Northern Whigs and northern Abolitionists saw at a glance that this organization afforded them a safe refuge from southern condemnation. With the instinctive sagacity that belongs to the vicious, they saw that they could entrap southern Whigs into a re-union. For some time they were mum on the subject of slavery. The "Order" spread. It spread like wild fire. It extended South and extended West. It was triumphantly proclaimed that it was a great national party that would break down all other parties and elect the next President.

Fanatics cannot stifle their electric impulses. They cannot long be silent. They cannot keep secrets. Nor was it long before the suppressed Abolitionism of the Northern Know-nothings burst forth with volcanic violence. They elected rank Abolitionists to high office, and in public meetings ostentatiously declared the close alliance between Free Soilism and Know-nothingism. To prove this we cite a few evidences:

The following are resolutions of a Know-nothing convention recently held in Norfolk, Connecticut:

"*Resolved*, That in the present chaotic condition of parties in Connecticut, the only star above the horizon is the love of human liberty and the abhorrence of slavery, and that it is the duty of anti-slavery men to rally around the republican party, as an organization which invites the united action of the people on the one transcending question of slave dominion which now divides the Union.

"Whereas Roman Catholicism and slavery being alike founded and supported on the basis of ignorance and tyranny, and being, therefore, natural allies in every warfare against liberty and enlightenment; therefore be it

"*Resolved*, That there can exist no real hostility to Roman Catholicism which does not embrace slavery, its natural co-worker in opposition to freedom and republican institutions."

The State council of Know-nothings held at Schenectady adopted the following resolutions:

"*Resolved*, That slavery, like Papacy, is a moral, social and political evil—at variance with the spirit of our republican institutions, and repugnant to the principles of freemen; that it is our duty to resist its extension, and that we cannot, as Americans, consent to the admission to the Union of any new State whose constitution recognizes human bondage."

On the 18th ultimo the members of the so-called American party met in caucus, "for the purpose of consulting upon the question of United States Senator." The following extracts from the proceedings are taken from the Boston *Telegraph:*

Mr. Prince, of Essex, "spoke strongly in favor of General Wilson's election, and deprecated any yielding to the South upon the question."

"Mr. Williams, born in Virginia, nursed by a slave, and had slaveholding relatives, was formerly a pro-slavery man, but the fugitive slave bill and the Nebraska bill had wrought an alteration in him. 'What we want in the South is to raise up the poor white man there, and not to play in the hands of the slaveholders.'"

Mr. Warren, of Suffolk, "agreed with General Wilson on slavery; if we put up an anti-Nebraska man General Wilson will withdvaw; if not, he will remain in the field and get all the votes he can."

Jonathan Pierce, the head of the order of Know-nothings, spoke next. "It had been said that this free soil movement would eat us up; I doubt it, *for we are all free soilers.*"

J. Q. A. Griffin, of Charlestown. "There was as much need of the American party before last year as during that year. If it had not been for the passage of that infamous Nebraska bill, and the utter meanness of Pierce's national administration, the revolution would not have speedily take place, though it might have come in time. He wanted a man right on this question—the one now prominent—(slavery) worthy to stand by the side of Charles Sumner."

Senator Pillsbury, of Hampden, said: "No man from his section could have come here if he had been only an American. It was because *the party* was anti-slavery, as well as American, that it has got the majority."

The Abolition Know-nothing Lecturer, Congressman Burlingame, (we copy the report of the Boston *Telegraph*,) was received with hearty applause:

"He commenced by saying that in speaking for freedom he should not be choice in the selection of terms by which to characterize slavery. Slavery had betrayed us, and the time had come for an outraged people to express their sentiments in language not to be misunderstood.

"Mr. B. ascribed the origin of slavery to Pope Martin V, who issued a bull sanctioning African slavery. It was also sanctioned by several of his successors. It was brought to this country under the cross and in the garb of humanity; but it was never sanctioned here by positive law."

He further said:

"*He was encouraged by the recent elections in the North*, AND HE DEFENDED THE 'NEW MOVEMENT,' WHICH HE SAID WAS BORN OF PURITAN BLOOD AND WAS AGAINST DESPOTISM OF ALL KINDS. THIS NEW PARTY SHOULD BE JUDGED, LIKE OTHERS, BY ITS FRUITS. *It had elected a champion of freedom, to the United States Senate for four years, to fill the place of a man who was false to freedom, and not true to slavery.* For himself he could say that so long as life dwelt in his bosom, so long would he fight for liberty, and against slavery. In conclusion, he expressed the hope that soon the time might come when the sun should not rise on a master nor set on a slave."

"This is the party and these are the men we fight against. Are we right?"

We commend the above to the attention of the Southern Whigs. They quit the Northern Whigs on account of their abolition sentiments. For the same reasons they ought now to abandon their Know-nothing allies of the North.

We read, with much attention, both the Richmond *Whig* and the Petersburg *Intelligencer*. We cannot doubt that they read with the same care the newspapers from the North. If they do, they cannot have failed to learn what is going on at the North. They cannot be ignorant that the Know-nothings are abolitionized. If so, why do they cling to them, after, for the same reason, abandoning the Northern Whigs?

We have seen much in the Richmond *Whig* written to prove that the Know-nothings of New York did not elect Senator Seward. But we have seen in it nothing in condemnation of the Massachusetts Know-nothings for electing General Wilson, who endorsed "every word" of Mr. Burlingame's abolition lecture. We have much respect for the ability and sincerity of both the *Whig* and the *Intelligencer*, and we feel solicitous to know what they think of Northern Know-nothingism as illustrated by the election of an Abolitionist *because he was an Abolitionist.* We feel solicitous to know what they think of the resolutions of Northern Know-nothing meetings which we have published above. We modestly think that it is their duty to tell their readers in the South what they think of these things. If they shall cut themselves off from the Northern Know-nothings, as they did from the Northern Whigs (and the "order" is mainly, if not altogether a Whig organization) then it ceases to be a national party. If such be the case why should it be sustained? A *local* political party is a supreme folly. We hope that the Whigs of Virginia will not commit such a folly.

Iowa.—The Legislature of Iowa adjourned on the 26th ultimo. They passed a law submitting the question of a constitutional convention to the people; a prohibitory liquor law was also passed, which is likewise to be submitted to the popular vote. P. Moriarty, esq., of the *Jackson County Press*, was chosen State printer for the next two years.

Mormon Temple.—The Mormon Temple begun at Salt Lake City, will be much larger than the temple built by the Mormons at Nauvoo. It will cost several millions of dollars.